IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

CWP No.283 of 2007
Date of decision: 20.08.2007

Archana Sharma.

-----Petitioner

Vs.

Presidinig Officer, Labour Court, Chandigarh and others.

-----Respondents

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE AJAI LAMBA

Present: Mr. Arun Bansal, Advocate
for the petitioner.

Mr. Sameer Sachdeva, Advocate
for respondents.

Adarsh Kumar Goel, J.

This petition seeks quashing of Award of the Labour Court dated 21.07.2006, Annexure P-5, dismissing the claim of the petitioner on the ground of delay.

Case of the petitioner is that she joined the post of Library Restorer on 29.01.1988. Her services were terminated in the year 1996. She raised an industrial dispute on 16.8.1999, on which, a reference was made to the Labour Court.

Claim of the petitioner was contested on the plea that the petitioner was employed out of students' fund and not against any regular post.

The Labour Court held that claim of the petitioner for regular post was rejected by the Central Administrative Tribunal and her SLP before the Hon'ble Supreme Court was dismissed as withdrawn. Demand was raised by her after three years of her alleged termination without any explanation. Though the petitioner having rendered service of 240 days, termination of services may amount to retrenchment and violation of Section 25-F of the Industrial Disputes Act, 1947 (for short, "the Act"), in view of delay in raising of the dispute, the petitioner was not entitled to any relief.

Learned counsel for the petitioner submitted that mere delay was not a valid ground for rejection of claim of the petitioner by the Labour Court when on merits, violation of Section 25-F of the Act has been established.

We are unable to accept the submission made.

In ***Nedungadi Bank Ltd.*** **v.** ***K.P. Madhavankutty****,* (2000) 2 SCC 455, the Hon'ble Supreme Court observed as under:-

> "*6* . Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service.

> At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising an industrial dispute was ex facie bad and incompetent."

In view of above, the view taken by the Labour Court cannot be held to be perverse so as to call for interference under Article 226 of the Constitution.

The writ petition is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

August 20, 2007 **(AJAI LAMBA)**
ashwani **JUDGE**